

Decision 03-04-046 April 17, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's own motion into the Operations and practices of Bidwell Water Company and its Owners and Operators, Thomas and Vicki Jernigan, and Order to Show Cause why findings should not be entered by the Commission under Public Utilities Code Section 855.

Investigation 01-10-002
(Filed October 2, 2001)

**ORDER DISMISSING INVESTIGATION
AND SHOW CAUSE ORDER FOR MOOTNESS**

The Commission issued its Order Instituting Investigation and to Show Cause (Order) on October 2, 2001. The Order names Bidwell Water Company (Bidwell) and its owner/operators, Thomas Jernigan and Vicki Jernigan, as respondents. Bidwell was a small family-owned water company serving the town of Greenville and its environs in Plumas County.

The Order directed the respondents to show cause why the Commission should not enter findings, based upon their conduct, that,

1. Bidwell is unable or unwilling to adequately serve its ratepayers; or
2. Bidwell has been actually or effectively abandoned by its owners; or
3. Bidwell is unresponsive to the rules or orders of the Commission.

The Order clearly indicated that the Commission sought these findings as a predicate to petitioning the Court for an order appointing a receiver pursuant to Pub. Util. (PU) Code § 855. Ordering Paragraph 1 required the respondents to

appear before the Commission on October 30, 2001, and the order was served upon the respondents and their attorney.

The hearing was held on October 30 pursuant to the notice and order. The Commission appeared through its Consumer Services Division. Both sides presented evidence, and each side was permitted an opportunity to submit a post-hearing exhibit to offer corrections or additions to the Commission's Report on the Financial Condition of Bidwell (September 26, 2001) that was prepared under the direction of the Legal Division. Two rounds of briefs were filed, and the proceeding was submitted on January 4, 2002.

The proposed decision of the administrative law judge and an alternate decision by then-Commissioner Henry M. Duque, who was the assigned Commissioner at that time, were mailed on March 12, 2002, and scheduled for a vote on the April 18, 2002, Commission agenda. However, both the proposed decision and the alternate were subsequently withdrawn from the agenda because of the pending sale of Bidwell to Indian Valley Community Services District (Indian Valley), subject to Commission approval in Application (A.) 02-05-021.

In Decision (D.) 02-10-003 (October 3, 2002) the Commission granted Bidwell's application in A.02-05-021 for the sale of its system to Indian Valley. That sale was subsequently consummated on January 6, 2003. (See Attachment.) No reason this exists for consideration of whether the Commission should seek appointment of a receiver.

This proceeding is now moot, and accordingly will be dismissed.

Comments on the Draft Decision

This is an uncontested matter pertaining solely to a water company. Accordingly, pursuant to Pub. Util. Code § 311(g)(3), the otherwise applicable 30-day review and comment period does not apply.

Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Victor D. Ryerson is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Commission instituted this proceeding on October 2, 2001, to determine whether cause exists to seek appointment of a receiver pursuant to PU Code § 855 to operate Bidwell.
2. On October 3, 2002, the Commission granted Bidwell's application in A.02-05-021 to sell its system to Indian Valley.
3. The sale of Bidwell's system to Indian Valley has been consummated, and the system is now being operated by Indian Valley.
4. Cause no longer exists to consider whether the Commission should seek the appointment of a receiver pursuant to PU Code § 855.
5. Dismissal of Investigation (I.) 01-10-002 for mootness is uncontested, and no hearing has been held on the issue of mootness.

Conclusion of Law

I.01-10-002 should be dismissed for mootness.

O R D E R

IT IS ORDERED that:

1. The Order Instituting Investigation and to Show Cause in the proceeding is dismissed.
2. Investigation 01-10-002 is closed.

This order is effective today.

Dated April 17, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

ATTACHMENT